

U.S. Patent Application No. 10/694,659  
Amendment dated August 11, 2005  
Reply to Office Action of April 19, 2005

**REMARKS/ARGUMENTS**

Reconsideration and continued examination of the above-identified application are respectfully requested.

In the present amendment, new claims 12-30 have been added by way of this amendment. Support for these new claims can be found throughout the present application including the figures as originally filed. For instance, claim 12 is supported by the present application, for instance, at pages 11 and 12 of the present application. This is also true for claim 13. With respect to claim 14, support, for instance, can be found at page 17 of the present application. With respect to claim 15, support can be found at page 19 of the present application, for example. In addition, Figures 5-8 of the present application further support this claim. With respect to claims 16 and 17, support for these claims, for instance, can be found at pages 17 and 18 of the present application as well as Figures 5-8 of the present application. In addition, page 18, lines 3-18 further support these claims.

With respect to claim 18, pages 17 and 18 of the present application and Figures 4a-d support this claim. With respect to claim 19 of the present application, page 30 of the present application along with Figure 9 support this claim, for instance. With respect to claim 20 of the present application, Figure 10A and the description in the application relating to this figure support this claim, for instance. With respect to claims 21 and 22 of the present application, support, for instance, can be found at page 26 of the present application. With respect to claims 23 and 24, Figures 5-8 and the description relating to these figures in the present application, for example, support these claims. With respect to claim 25, this claim is supported by the claims as originally filed including the option that the observation display section is identical with the simple observation image display section. With respect to claim 26, Figures 1 and 5-8 along with the description in the present application relating to these figures, for example, support this claim.

U.S. Patent Application No. 10/694,659  
Amendment dated August 11, 2005  
Reply to Office Action of April 19, 2005

With respect to claims 27-29, these claims recite method features which simply are versions of the product claims set forth above except in a method format. Finally, with respect to claim 30, support for this claim, for instance, can be found in Figure 1 and the description relating to this figure in the present application. The applicants do note that minor formality amendments have been made to claims 1-9 of the present application. Accordingly, no questions of new matter should arise and entry of this amendment is respectfully requested. As a result of this amendment, claims 1-30 are now pending.

At page 2 of the Office Action, the Examiner has objected to the use of the term "simple" in both of the first and second elements of claim 1. The Examiner then suggests language that would be more acceptable.

At page 2 of the Office Action, the Examiner has also objected to claims 7 and 8 as lacking proper support in claim 6, and again the Examiner offers a corrective suggestion. For the following reasons, these objections are respectfully traversed.

With respect to claim 1 and the Examiner's suggestion, while the applicants appreciate the Examiner's suggestion and understand why such a suggestion would be made, the applicants fear that if these amendments are made to claim 1 to replace the term "simple" with "a first observation condition setting" then the specification will not coincide with these changes. The applicants believe the present application clearly distinguishes the two terms such that one skilled in the art would understand these terms. Accordingly, the applicants believe the language as used in claim 1 is sufficient and the applicants would appreciate if the Examiner would withdraw this objection.

With respect to claims 7 and 8, the applicants appreciate the Examiner's suggestion and amendments have been made to claims 7 and 8 to address the Examiner's concerns. The scope of these claims remain the same. Accordingly, for these reasons, these objections should be

U.S. Patent Application No. 10/694,659  
Amendment dated August 11, 2005  
Reply to Office Action of April 19, 2005

withdrawn.

At page 3 of the Office Action, the Examiner rejects claims 1-11 under 35 U.S.C. § 102(e) as being anticipated by Bacus et al. (U.S. Patent No. 6,396,941).

At pages 3-5 of the Office Action, the Examiner explains the reasons why the Examiner believes that Bacus et al. teaches the subject matter of each of the claims of the present application. For the following reasons, this rejection is respectfully traversed.

Bacus et al. relates to a system for viewing microscopic images, whereby only the magnification and the view point can be changed. Thereby, a plurality of tiles of an image is stored. The user can highlight the areas to be viewed with a higher magnification. The computer then repeats the scanning and the image tile creation process for the selected region.

The present invention permits one to obtain multiple images of the same subject which then permits the user to select the image from the plurality of images of the same subject for subsequent use. With respect to the plurality of observation images, these pluralities of observation images are for the same subject, but that each image is a variation of certain observation conditions, which permits the user to see the effects of various observation images of the same subject. The user can then select the desired image from among a plurality of images and then conduct further observation conditions with the selected image. From a review of Bacus et al., Bacus et al. only scans the entire microscopic image and provides this information in tiled microscopic images. Bacus et al. does not provide a plurality of observation images of the same subject wherein each of the plurality of images are different based on the altering of observation conditions.

As stated, Bacus et al. simply provides the entire scanned image and breaks this information into tiled section. Therefore, Bacus et al. does not provide multiple images of the same subject for subsequent selection of the most desired image for further processing.

U.S. Patent Application No. 10/694,659  
Amendment dated August 11, 2005  
Reply to Office Action of April 19, 2005

Also, Bacus et al. does not teach “an observation condition setting system for setting further observation conditions...”, that is, the fourth element of claim 1. The Bacus et al. apparatus is not designed for optimizing observation conditions, but for obtaining a set of tiled images, and then displaying and transmitting the images over the internet.

At page 3 of the Office Action, the Examiner cites col. 3, lines 43-50, of the Bacus et al. patent as teaching “the setting of further observation conditions.” This section refers to the Description of the Drawings section, and appears to be irrelevant to the rejection. This citation is probably a mistake. The Examiner may have meant to cite col. 6, lines 43-50.

Assuming that the Examiner meant to cite col. 6, lines 43-50, this section only describes highlighting or magnifying an obtained image. Highlighting and magnifying an image does not fall within “an observation condition setting section for setting further observation conditions” limitation of claim 1. Based on a review of the Bacus et al. reference, there is no teaching that would be the same as the “observation condition setting section for setting further observation conditions” limitation of claim 1.

Similarly, with regard to claims 10 and 11, Bacus et al. does not contain a teaching that resembles the “varying the observation conditions” limitation or the “setting further observation conditions” limitation that is contained in both claims.

At pages 3-5 of the Office Action, the Examiner also rejects claims 2-9 using the same Bacus et al. patent. The Examiner asserts that each of the features recited in the dependent claims is shown in Bacus et al. However, each of these rejections would have the same deficiency described above for claim 1, since all are ultimately dependent upon claim 1.

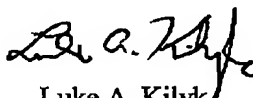
U.S. Patent Application No. 10/694,659  
Amendment dated August 11, 2005  
Reply to Office Action of April 19, 2005

**CONCLUSION**

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



Luke A. Kilyk  
Reg. No. 33,251

Atty. Docket No. 3140-017  
KILYK & BOWERSOX, P.L.L.C.  
53 A East Lee Street  
Warrenton, VA 20186  
Tel.: (540) 428-1701  
Fax: (540) 428-1720